

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES,	:
	:
Plaintiff,	: Hon. Faith S. Hochberg
	:
v.	: Criminal No. 09-195 (FSH)
	:
OLIVER CHUKWUMA,	: <u>ORDER</u>
	:
Defendant.	: Date: January 21, 2010
	:
	:

This matter comes before the Court upon Defendant Oliver Chukwuma's motion for a new trial; and it appearing that in support of his motion, Defendant argues that the Government inappropriately commented on his failure to testify in violation of the Fifth Amendment; and the Court having reviewed the parties' submissions, but requiring additional case law on Defendant's argument;

IT IS on this 21st day of January 2010,

ORDERED that by **January 29, 2010**, the parties shall canvass the case law and provide the Court with citations to, and brief analyses of, cases that have found a prosecutor's unconstitutional remarks regarding the accused's failure to testify to be harmless error beyond a reasonable doubt, and those that have found such remarks to not be harmless.

/s/ Faith S. Hochberg
Hon. Faith S. Hochberg, U.S.D.J.